ssm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3351 OF 2007

Laxman Kashinath Khaire ... Petitioner.

Vs.

Namdeo Kashinath Khaire & Ors. ...Respondents.

Mr. S. Kanetkar i/by Mr. G.S.Godbole for the petitioner.

Mr. S.G.Deshmukh i/by Mr. Rahul D. Motkari for respondent Nos. 1 and 2.

CORAM : ANOOP V. MOHTA,J.

DATED : 16th July, 2007

P.C.

1. In an earlier suit, there was a compromise decree. Respondent Nos. 1 and 2, original plaintiffs though failed to appear but the property in question has been partitioned and declared the plaintiffs as the owner of the suit. In the suit, the plaintiffs, therefore, was not in a position to move this injunction application for restraining the original respondent No.1 for alienating the suit land till the disposal of the suit. The said injunction application was rejected. Therefore, the Miscellaneous Civil Application was preferred. By the impugned order dated 2nd January, 2007, the appellate Court has granted the injunction. The same is reproduced as

under:-

> "2. Order passed below Exh.5 in R.C.S. No.103/2001 by Civil Judge, J.D.Chandwad is hereby set aside and application Exh.5 for temporary injunction is allowed restraining respondent No.1 from alienating suit land by any mode of transaction till the disposal of the suit."

2. After considering the above facts and as at present the limited period as sought and granted by the appellate Court, in no way said to be perverse or contrary. On the contrary, the reasons and the order as granted is correct. The Writ Petition is, therefore, dismissed. No costs.

[ANOOP V. MOHTA, J.]